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The Legal Education of Pope Innocent III

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treated this as a single letter, while the other preserved the identity of the separate letters.

More evidence about these divergent traditions might be obtained by a thorough examination of decretal collections of the more advanced type, noting the cases in which the scattered sections of JL 13162 are described as parts of *Meminitus* or of *Super eo*. Thus *Appendix Concilii Lateranensis* 39.1 describes *De monachis autem*, a section of *Meminitus*, as 'pars capituli Super eo', suggesting that behind *App.* lies a text which presented the letter as a single whole beginning *Super eo*, after the manner of *Coll. Cantuar. Compilatio I* 2.15.2 describes in the same way the section *Scripta vero autentica*, the last section of *Super eo*, a description which must go back to a similar text, or to one which presented *Super eo* as a separate letter. But a full examination of later developments is beyond the scope of the present enquiry.

To sum up. There are several indications that JL 13162 may originally have been two letters. These are:

1. The opening words of *Super eo* suggest a new beginning.
2. Three manuscripts preserve dates, and consistently offer different dates for *Meminitus* and for *Super eo*.
3. While many texts present JL 13162 as a single letter, a smaller but not negligible number either make a division at *Super eo*, treating it as a separate letter, or place *Super eo* first, or detach it altogether.

These textual variants would most easily be explained on the assumption that JL 13162 consists of two originally distinct letters of Pope Alexander III to the bishop of Worcester, both issued from Benevento, *Meminitus* on 4 Sept. 1167 × 1169, and *Super eo* on 1 Sept. 1167 × 1169, perhaps in different years.

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MARY CHENEY

The Legal Education of Pope Innocent III*

Historians have traditionally acknowledged the importance of Innocent III's pontificate for the development of the medieval church. They almost unanimously concur that his pontificate represented the apogee of the medieval papacy. Law, they assert, was one of the key elements which Innocent used to construct papal government, and Innocent is generally regarded as one of the great lawyer popes of the Middle Ages.¹ Further, historians have credited Huguccio of Pisa,

* Professor Kuttner has kindly commented on several drafts of this paper. Although he agrees that there is no text to prove that Innocent III was a doctor of law or studied with Huguccio, he thinks that I have too readily discounted the internal evidence for his legal learning, that is, the consistent professional flavor apparent, from the beginning of Innocent's pontificate, in the language of his decretal letters. They reflect, he feels, a single mind: Innocent's. (K.P.)

¹ E.g. G. Barraclough, *The Medieval Papacy* (New York 1968) 112; C. W. Previté-Orton, *The Shorter Cambridge Medieval History* II (Cambridge 1966) 645. *Handbuch der Kirchengeschichte: Die mittelalterliche Kirche*, ed. H.-G. Beck et al. (Freiburg, Basel, Wien 1968) 171-91 has good bibliographies of work done on Innocent III. The best study of Innocent's early life is M. Maccarrone, 'Innocenzo III prima del pontificato', *Archivio della R. Deputazione romana di Storia patria* n.s. 9 (1943) 59-134.

one of the most important canon lawyers of the twelfth century, with molding Innocent's mind while he was a student at Bologna and have found in Huguccio's work the inspiration for some of Innocent's policies as pope.² This paper will examine the evidence upon which these two assertions rest.

Both medieval and modern historians of canon law have assumed that Lothair of Segni learned canon law at Bologna from Huguccio, who taught at Bologna until 1190 when he became bishop of Ferrara.³ He remained at Ferrara until his death in 1210. We have two letters which Innocent wrote to Huguccio while he was bishop of Ferrara, although, peculiarly, the tradition that Innocent had been Huguccio's student did not arise from these letters.⁴ The first letter, which Innocent wrote early in his pontificate, noted that Huguccio was learned in law and commended him for consulting Rome in legal matters in spite of his legal erudition.⁵ The second letter, written in 1209, was in answer to Huguccio's question concerning the nature of the water which had issued from the side of Christ while he was hanging on the cross. Innocent's letter in reply to Huguccio's inquiry was formal and devoid of any personal touches. Innocent could have recalled his student days at Bologna in these letters. When he wrote to King Richard I of England and the cathedral chapter of York about providing a prebend for Peter of Corbeil, Innocent noted that he had been Peter's student.⁶ However, Innocent gave no indication in these or any of his other letters that he had ever studied law with Huguccio.

The tradition that Innocent had studied law under Huguccio arose from a letter which did not concern Huguccio personally.⁷ Innocent had written to the bishop of Mantua that two sacred orders could not be conferred on one day, or on two consecutive days if fasting had been carried over from one day to the next. This decretal was contrary to the opinion which Huguccio had expressed

² H. Tillmann, *Papst Innocenz III.* (Bonn 1954) 8; M. Maccarrone, *Chiesa e stato nella dottrina di papa Innocenzo III* (Rome 1940) 59 *et passim*; 'Innocenzo III' 80 and 115-17; A. Stickler, 'Der Schwerterbegriff bei Huguccio', *Ephemerides iuris canonici* 3 (1947) 201-42; S. Mochi Onory, *Fonti canonistiche dell'idea moderna della stato* (Milan 1951) 46 *et passim*.

³ E.g. Schulte, *Geschichte* I 156; Sarti and Fattorini, *De claris Archigymnasii Bononiensis professoribus*² I 371; Maccarrone, 'Innocenzo' 79-81.

⁴ PL 216.16-18 [3 *Comp.* 3.33.7 (X 3.41.8)] Po. 3684; and PL 214.588-89 [3 *Comp.* 4.14.1 (X 4.19.7)] Po. 684.

⁵ X 4.19.7: 'Quanto te magis novimus in canonico iure peritum, tanto fraternitatem tuam amplius in Domino commendamus, quod in dubiis questionum articulis ad sedem apostolicam recurris, quae disponente Domino cunctorum fidelium mater est et magistra, ut opinio quam in eis quondam habueras dum alios canonici iuris peritiam edoceres, vel corrigatur per sedem apostolicam vel probetur'.

⁶ *Die Register Innocenz III.: 1. Pontifikatsjahr, 1198/99*, ed. O. Hageneder and A. Haidacher (Graz-Köln 1964) 700-02 (Po. 479, 480, 481) at 700: 'Cum tamen ad memoriam nostram reducimus nos aliquando sub ipsius magisterio extitisse et ab eo divinarum audisse paginam scripturarum, quod utique non pudet nos dicere, immo reputare volumus gloriosum . . .'. This fact is also mentioned by the author of the *Gesta Innocentii papae III*, Vat. lat. 12111 fol. 83v (c.47, PL 214.ccxxv): 'et Petrum de Corborlio [sic], qui fuerat doctor eius Parisiis fecit Cameracensem episcopum, et postea promovit eum in archiepiscopum Senonensem'. See Maccarrone, 'Innocenzo III' 72-9.

⁷ 3 *Comp.* 1.9.5 (X 1.11.13) Po. 1327. From the canonical collection of Rainier of Pomposa, PL 216.1251.

in his great *Summa* on Gratian's *Decretum*, and Innocent referred to Huguccio's opposing opinion in his letter without explicitly naming him.⁸ However, later canonists pointed out to their readers and students that Innocent was refuting Huguccio's opinion in this decretal.⁹

Hostiensis, for example, in the middle of the thirteenth century commented on Innocent's letter:¹⁰

It can be presumed that Innocent held Master Huguccio in great reverence because through the foregoing words it seems that he did not intend to reprove Huguccio's opinion — even though Innocent immediately did so.

Later in the fourteenth century, the Bolognese canonist, Johannes Andreae (d. 1348) compressed Hostiensis' gloss and wrote:¹¹

⁸ X 1.11.13: 'Si enim utrumque ordinem eodem die conferre illi non licuit, pari non licuit ratione unum ordinem uno die, et alium altero ieiunio continuato conferri, cum propter continuationem ieiunii fictione canonica, sive mane diei dominicae trahatur ad sabbatum, sive vespera sabbati ad diem dominicam referatur, profecto mane cum vespera seu vespera cum mane ad eundem diem pertinere dicetur. Nam si, quantum ad hunc necessitatis articulum pertinet, mane ad unum diem, et vespera referatur ad alium, cur esset continuatio ieiunii necessaria, cum et sabbato ante coenam, et dominica ante prandium intelligantur esse ieiunii?'

⁹ Johannes Teutonicus in a gloss to 3 *Comp.* 1.9.5 (X 1.11.13) s.v. *articulum mane*, Admont 22 fol. 152r: 'Hugo dicit omnes ordines esse conferendos die dominica, ut lxxv di. Quod a paribus et c. Quod die, et dicit quod uespere precedentis noctis <pertinent> ad diem sequentem, ut siue de uespere in sabbato siue mane die dominico conferatur, semper die dominico dicuntur conferri. Quod autem legitur, supra eodem, De eo, ubi dicitur quod sabbato conferantur, dicit intelligendum esse de sabbato uulgari, quia uulgi consuevit appellare diem sabbati totalem illam diem, licet reuera uespere illius diei trahatur ad diem sequentem'.

¹⁰ Hostiensis, *Commentaria* to X 1.11.13 s.v. *referatur*: 'Presumi potest quod dominus Innocentius III magistrum Huguccionem habuit in magna reverentia, quia per predicta verba videtur quod non intendat suam sententiam reprobare . . . tamen ipsum statim reprobatur'. (Venice 1581) I fol. 101v. Hostiensis thought it natural that papal legislation ought to take into account the opinions of the canonists, and in his commentary to X 1.7.2. s.v. *ultra sex* he asserted that Innocent III had been influenced by Huguccio. Hostiensis stated that Innocent had set a limit of six months rather than five for a bishop-elect to retain widowed churches, and he believed that Innocent chose six months instead of five because he wished to defer to Huguccio's opinion, 'quia tanto magistro voluit deferre'. (Venice 1581) fol. 83r. However, the text of the decretals was corrupt, for Innocent had originally written five months, not six, and consequently Hostiensis' supposition is mistaken.

¹¹ Johannes Andreae, *Novella* to X 1.11.13 s.v. *referatur*: 'Noluit Innocentius aperte reprobare opinionem Huguccionis magistri sui, quam tamen reprobatur in effectu, et est simile de rest. spol. Litteras'. (Venice 1581) I fol. 158v. It was a common tenet of the lawyers that the decisions of earlier authorities ought to be overturned only with due consideration. Hostiensis, for example, wrote in his *Summa aurea* (Lyon 1537) fol. 294r: 'Opinionibus igitur maiorum dominorum meorum derogare non cupio: nec aliquid ubi commode sustineri potest opinio expressim reprobabo, quia et hoc notat Innocentius III, pater iuris, supra de rest. spol. Litteras § Nos autem'. Innocent III had stated in *Litteras* [X 2.13.13] that 'Nos autem ad praesens nullam de praedictis sententiis reprobamus, nec cuiquam earum aliquod praedudicium ex nostra responsione generari, quamvis praescriptum Lucii Papae mandatum ad possessionem, responsum vero patris et praedecessoris nostri Clementis ad petitorium referatur'.

Innocent did not want to reject the opinion of his master Huguccio explicitly, which, nevertheless, he does reject in the end.

Johannes Andreae was the first canonist — so far as I can find — who said that Innocent had been a student of Huguccio, and all later historians have cited this text to prove that fact. However, Johannes clearly based his gloss on Hostiensis' text, although he reproduced it carelessly. There is no earlier evidence that Innocent studied under Huguccio, and the tradition must, therefore, be relegated to the garden of historical mythology. Johannes might have been recording an oral or an unknown written source at Bologna, but I think that the evidence points to a corruption of Hostiensis' gloss rather than an independent tradition.

This leads us to the larger question of whether Innocent III ever formally studied law. Innocent did study at Bologna. But did he study law there? Historians—having hitherto accepted the story that Innocent studied under Huguccio—have used the anonymous *Gesta Innocentii papae III* as further proof that Innocent studied law at Bologna. Consequently, they have interpreted the imprecise remarks of the *Gesta's* author to mean that Innocent went to Bologna to pursue legal studies after he had finished studying theology at Paris. Historians have applauded Innocent's good sense. They feel that he was a mediocre theologian at best, and law was better suited to his talents.¹² The section in the *Gesta* on Innocent's early education is worth quoting in full:¹³

He pursued scholastic studies first at Rome, then at Paris and finally at Bologna, and he surpassed his contemporaries in both philosophy and theology, just as his works which he wrote and drafted at various times show. Before his pontificate, he completed the books, *De miseria conditionis humane*, *De missarum mysteriis* and *De quadripartita specie nuptiarum*. During his pontificate he wrote books of sermons, letters, registers and decretals which manifestly make evident how much he was learned in both human and divine law.

The first sentence of this passage has been cited as evidence that Innocent studied law at Bologna, but one may note that the *Gesta's* author said nothing about studying law. Innocent, he said, pursued *scholastica studia*. In the thirteenth century 'scholastic studies' commonly meant the study of the liberal arts or theology, but we do have an example in which Innocent himself used the term 'scholastici' to refer to law professors.¹⁴ However, the *Gesta* concluded the sen-

¹² Cf. Walter Ullmann's remarks in his contribution on Innocent III in NCE and in *A Short History of the Papacy in the Middle Ages* (London 1972) 207.

¹³ *Gesta*, Vat. lat. 12111 fol. 1r (PL 214.xvii-xviii, c.2). 'Hic primum in Vrbe, et deinde Parisius, tandem Bononie, scholasticis studiis insudavit, et super coetaneos suos tam in philosophica quam theologica disciplina profecit, sicut eius opuscula manifestant, que diversis temporibus edidit et dictavit. Fecit enim, ante pontificatum, libros *De miseria conditionis humane*, *De missarum mysteriis*, et *De quadripartita specie nuptiarum*. Post pontificatum autem, libros sermonum,^a epistolarum, regestorum et decretalium, que manifeste declarant quantum fuerit tam in humano quam in diuino iure peritus'.

a) *add.*² *marg.* et postillam super septem psalmos

¹⁴ 3 *Comp.* 5.21.4 (X 5.39.40) Po. 1830. Professor Kuttner kindly referred this text to me. A *scholasticus* in late imperial Roman law (Theodosian Code) was an advocate or lawyer. Cf. E. Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia 1953) 691.

tence by stating that Innocent excelled in philosophy and theology: the second half of the sentence specified the kinds of 'scholastic studies' in which Innocent had been engaged. If Innocent did not study law at Bologna, what could he have studied there instead of law? He may have studied theology or the notarial arts; we know that both disciplines existed in late twelfth-century Bologna.¹⁵ Obviously, Innocent may have 'read' law at Bologna — that was the usual reason for studying there — but there is not any certain evidence in the *Gesta's* account that he did so.

In the last sentence of the paragraph, the *Gesta's* author declared that Innocent was learned in 'both human and divine law'. To be sure, if he had not studied law, by the time in which the *Gesta's* author wrote (ca. 1210), Innocent would have acquired a substantial knowledge of law just from sitting in his consistory three times a week. But the specific phrase, 'learned in both human and divine law' is typical of the sort of accolades with which medieval biographers were prone to describe their subjects, and does not suffice as evidence to attribute legal training to Innocent. The phrase itself is too vague.

Not only the *Gesta*, but also lawyers characterized Innocent's intellectual gifts with words of extravagant praise, but I do not think that their encomia constitute a proof that Innocent was trained as a canonist. Vincentius Hispanus, for example, said that Innocent was 'pater eminentis scientie et perspicacissimi ingenii'.¹⁶ Vincentius used almost the same wording to describe Pope Gregory IX in his prologue to the *Gregoriana*, although he explicitly stated that Gregory was learned in *utroque iure*,¹⁷ a phrase which he did not use to describe Innocent III. Hostiensis called Innocent the 'pater iuris' several times in his legal works.¹⁸ Thirteenth-century canon law was shaped and formed by Innocent's decretal letters, and Hostiensis, as well as many other lawyers, knew how important Innocent's pontificate had been for the development of ecclesiastical law. The title 'pater iuris' was certainly appropriate for Innocent, but such a title would not, it seems to me, prove legal training any more than the *Gesta's* statement that Innocent was 'learned in both human and divine law'.

The one positive piece of evidence that Innocent studied law is the enormous collection of decretal letters which were written during his pontificate. Many of these letters display sophisticated knowledge of Roman law and legal concepts, while demonstrating great skill in deciding individual cases. Only a trained lawyer or lawyers could have drafted these letters. We can even be sure that Innocent had a hand in many of the cases which the letters report, for the *Gesta*

¹⁵ H. Rashdall, *The Universities of Europe in the Middle Ages*, ed. F. M. Powicke and A. B. Emden, I (Oxford 1936) 108-11, 233-37. For the time of Innocent's stay in Bologna, see Tillmann, *Innocenz III*. 290-1 and Maccarrone, 'Innocenzo III' 81. One may wonder why Innocent would have gone to Bologna to study anything other than law, but there were precedents for this. John of Salisbury in the *Metalogicon* (quoted in Rashdall I 109) said that one of his teachers at Paris went to Bologna, unlearned what he had been taught, and returned to Paris. Rashdall cites other examples that the *variae artes* attracted men to Bologna in the twelfth century. There is almost no evidence that students studied theology in Bologna at this time, although it would be surprising if no theology were taught.

¹⁶ St. Gall MS 697 fol. 1r and Vat. lat. 1378 fol. 1r.

¹⁷ Paris BN lat. 3967 fol. 1r: 'Sanctissimus papa dominus Gregorius viiii. pater perspicacissimi ingenii in utroque iure eminentissime scientie'.

¹⁸ Cf. n. 11 above.

tells us that Innocent judged many of the 'more important' cases at the Curia,¹⁹ although he did not judge personally all the cases which came to Rome.²⁰ Innocent's letters show not only an awareness of the problems which concerned the canonists at Bologna, but often — as in the letter to the Bishop of Mantua referred to above — demonstrate a knowledge of individual canonistic opinions. However, as Christopher Cheney has pointed out, we can never be sure when Innocent's decretal letters reflect his own words or thoughts.²¹

¹⁹ *Gesta*, Vat. lat. 12111 fol. 12v (PL 214.lxxxi, c.41): 'Ter in ebdomada solenne consistorium, quod in desuetudinem iam deuenerat, publice celebrabat. In quo auditis querimoniis singulorum, minores causas examinabat per alios; maiores autem uentilabat per se, tam subtiliter et prudenter, ut omnes super ipsius subtilitate et prudentia mirarentur. Multi litteratissimi uiri et iurisperiti Romanam ecclesiam frequentabant, ut ipsum dumtaxat audirent, magisque discebant in eius consistoriis, quam didicissent in scolis, presertim cum eum promulgantem sententias audiebant; quoniam adeo subtiliter et efficaciter allegabat, ut utraque pars se uicturam speraret, dum eum pro se allegantem audiret, nullusque tam peritus coram eo comparuit aduocatus, qui oppositiones ipsius uehementissime non timeret. Fuit autem in conferendis sententiis ita iustus ut numquam personas acciperet, numquam a uia regia declinaret. Eisdem cum multa maturitate, deliberatione prehabita, proferebat'. The *Gesta* then describes a number of cases which Innocent judged (*Gesta*, c.42, PL 214.lxxxi-lxxxvi).

²⁰ Although we know that the pope did not personally judge all cases, the Curia never distinguished between those cases which he judged and those which curial officials (*auditores*, *camerarius*, *vicecancellarius*) heard. Goffredus Tranensis stated in his *Summa*, written ca. 1241, that the *Camerarius*, Vicechancellor and *auditores* had ordinary jurisdiction which enabled them to hear an infinite number of cases: 'Vnde quo ad iurisdictionem ordinariam conferendam equipollet lex animata et inanimata . . . quod uerum est cum papa vel princeps non unum vel duas vel x. causas alicui committit, sed universitatem causarum. Vnde camerarium, vicecancellarium, auditorem contradictarum et auditorem camere ordinarios puto' (Lyon 1519) fol. 54r. The *Gesta's* account would indicate that Innocent's Curia had similar practices although, unfortunately, precious little is known about this aspect of the Curia in Innocent's pontificate. See P. Herde, *Beiträge zum päpstlichen Kanzlei- und Urkundenwesen im dreizehnten Jahrhundert* (Kallmünz 1967) and *Audientia litterarum contradictarum: Untersuchungen über die päpstlichen Justizbriefe und die päpstliche Delegationsgerichtsbarkeit vom 13. bis zum Beginn des 16. Jahrhunderts* (2 volumes; Tübingen 1970), for further literature. There is an interesting text on Innocent's role as judge in Tancred's *Ordo iudiciarius*. He stated that Innocent often did not read 'prolix opinions', but only the verdict (*condemno vel absolvo*): 'Quid, si iudex sit illiteratus omnino et nesciat legere, vel non uidet? Nam caecus iudicare potest. Quid fiet? Respondeo, vel deleget causam diffiniendam alteri, vel faciat petitionem et allegationes partium per alium recitari, et per se ipsum, ab alio instructus proferat verba diffinitionis causae, scilicet 'condemno' vel 'absolvo'. Hoc saepe vidi fieri in civitate Bononiensi a peritissimis legum doctoribus, et in curia Romana a domino Innocentio papa tertio felicis recordationis, cum prolixas ferebat sententias', ed. F. C. Bergmann (Göttingen 1842) 279. However, it is impossible to determine whether Tancred meant to assert that Innocent may have delegated or had assistance with many court cases or whether he merely wished to say that a judgment did not have to be read aloud in its entirety for it to be valid.

²¹ *The Letters of Pope Innocent III (1198-1216) concerning England and Wales* (Oxford 1967) xvii. Also similar remarks in 'The Letters of Pope Innocent III', *Bulletin of the John Rylands Library* 35 (1952-53) 23-43.

We must squarely face the facts that there is no positive proof of the pope's [Innocent's] drafting of any particular letter, and that we cannot hope to distinguish certainly between those which he wrote and those written by high officials of the Curia who shared his views and his intellectual background, and acted under his instructions. Nor must we assume that the most eloquent or the most profound letters were necessarily those which the pope himself composed.

Further, we may suppose that the officials at the Curia would have put forward most of the varying canonistic opinion in their arguments, and Innocent's decretals would have reflected their knowledge as well as his own. Innocent, in short, like later popes who were not lawyers (e.g. Honorius III) may have produced his letters with the help of curial officials, perhaps never even seeing many of them, and his decretals cannot provide us with absolute evidence that he had studied law.

A persuasive argument, although *ex silentio*, that Innocent never studied law is that he never wrote a legal treatise of any kind even though he wrote a number of works after he left Bologna. He composed three theological tracts — mentioned in the section of the *Gesta* quoted above — before he became pope.²² These works are of pedestrian quality and are purely theological, very similar to contemporary theological tracts which were produced in Paris. There is hardly any trace of legal learning in them. Even in subject areas where Innocent could have employed legal arguments, such as in *De sacro altaris mysterio* or *De quadripartita specie nuptiarum*, he used no direct legal sources. Is it possible that Innocent could have studied law for any length of time without there being a definite reflection of this interest and learning in his works? If he was as learned in law as historians have maintained and his letters seem to indicate, why did he not write any legal tracts? In a work like *De miseria humanae conditionis*, we would not have expected Innocent to display his legal erudition. But when he discussed the species of human matrimony in *De quadripartita*, his analysis was strictly theological rather than legal. The law concerning marriage had been rapidly changing during the last half of the twelfth century, particularly under the impact of Pope Alexander III's decretals. If Innocent was trained as a lawyer, it is certainly curious that he did not allude to the pertinent canonical texts when he discussed marriage.²³

²² They are conveniently printed in PL 217.701-46, 773-916, 921-68.

²³ Maccarrone, 'Innocenzo III' 115-17, sees the influence of Huguccio's teachings on the Eucharist in *De sacro altaris mysterio*. 'La *summa* di Uguccione e il *De s. altaris* hanno un carattere ed uno scopo diverso, perchè la prima è una glossa minuta, parola per parola, dei canoni di Graziano (in genere passi patristici o decreti di Concili), mentre Lotario è legato alle parole del canone che segue nella sua esposizione; tuttavia si può vedere la influenza di Uguccione nella ispirazione generale e nel contenuto del terzo e quarto libro del nostro trattato; solo una conoscenza completa della dottrina sacramentaria del grande canonista potrà mostrare sino a che punto il discepolo dipenda dall'insegnamento del maestro'. Obviously Maccarrone's case is not a strong one; he makes the same sort of claim for Huguccio's influence on Innocent's theories of Church and State. But there is no positive proof of any direct borrowing by Innocent. Maccarrone has recently written a long article on Innocent's position on the Eucharist, 'Innocenzo III teologo dell'Eucaristia', *Divinitas* 10 (1966) 362-412. The article is reprinted in *Studi su Innocenzo III* (Italia sacra 17; Padova 1972) 341-431. In this article (pp. 357-8 in *Studi su Innocenzo III*) Maccarrone points out that Innocent adopted the view of the Parisian theologians that heretical priests could not confer

Finally, there is the problem of the length of time during which Innocent could have studied at Bologna. Helene Tillmann has determined that Innocent probably left Paris for Bologna in the summer or fall of 1187.²⁴ At this same time (October-December, 1187) Pope Gregory VIII made Innocent a subdeacon.²⁵ Innocent could have gone back to Rome then, but if he stayed at Bologna and held his office *in absentia*, he undoubtedly did go to Rome by September of 1189 when Pope Clement III raised him to the cardinalate.²⁶ Thus, even by the most generous estimate, Innocent could have studied at Bologna for only two years; hardly enough time for him to have become a highly skilled canonist, even if he had studied law.

In conclusion, there is no evidence that Innocent III was the student of Huguccio or any other canonist at Bologna, and historians should be chary of interpreting Innocent's thought through the medium of canon law alone. If, however, Innocent was either not, or only partially trained as a lawyer, this fact in no way denigrates his accomplishments. Like King Henry II of England, he had a keen sense for administration, which would not have been more acute even if he had studied canon law. But we might deepen our understanding of his pontificate if we looked at Innocent as basically a theologian rather than as a lawyer. A man's thought is shaped by his background, and Innocent's statements on Church and State might be better understood if they were seen as pastoral exhortations and theological expositions rather than as a lawyer's shrewd formulations. Many of the ambiguities of Innocent's pontificate which have exercised the pens of historians might be made clearer if we viewed Innocent as a pastoral theologian who was more concerned with resolving specific problems within his flock than in establishing legal precedents for future popes. In fact, many of his most important ideological innovations — the concepts of *ratione peccati* and *consequenter* and the use of Old Testament figures like Melchisedek as models for the thirteenth-century papacy — have few if any antecedents in the writings of the canonists. The paradox is, nevertheless, that Innocent's pastoral approach to crucial problems both within and outside of the Church had profound legal ramifications. Thirteenth-century canonists modified the prevailing dualistic theories of the twelfth century when they attempted to explain Innocent's decretal letters which concerned Church and State in legal terms.²⁷ Innocent's views, whether intentionally or not, shaped canonistic thinking for the rest of the thirteenth century.

Was Innocent III a lawyer? We may never know how much legal training Innocent had with absolute certainty. What can be said is that the positive evidence which supports the traditional view that Innocent was a Bologna-educated canonist is very slight.

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valid sacraments. Huguccio and most canonists of the twelfth century thought that a heretical priest could confer valid sacraments. It is noteworthy, I think, that Innocent gave no indication that he was aware of contrary canonistic opinions on this point.

²⁴ Tillmann, *Innocenz III*. 290-1. Tillmann devotes an appendix to dating Innocent's stay in Paris. The date of fall, 1187 is not absolutely certain, but very probable.

²⁵ *Ibid.* 9.

²⁶ *Ibid.* 10.

²⁷ I have discussed the legal implications of Innocent's thought in 'Pope Innocent III's Views on Church and State: A Gloss to *Per venerabilem*', which will appear in a future issue of *Mediaeval Studies*.